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Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Human rights situation in Palestine and other occupied Arab territories

Ensuring accountability and justice for all violations of international law in the Occupied Palestinian Territory, including East Jerusalem: comprehensive review on the status of recommendations addressed to all parties since 2009

Report of the United Nations High Commissioner for Human Rights*, **

Summary

The present report is submitted pursuant to Human Rights Council resolution 31/35, and details the status of implementation of the recommendations addressed to all parties since 2009 by the relevant Human Rights Council mechanisms, namely previous fact-finding missions, the commission of inquiry and special procedures, and by United Nations treaty bodies, the Office of the United Nations High Commissioner for Human Rights and the Secretary-General in their reports to the Human Rights Council. The report identifies patterns of cooperation, compliance and implementation, and proposes follow-up measures to ensure implementation.

* The report was submitted after the deadline in order to reflect the most recent developments.
** The annex to the report is being circulated as received.

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I. Introduction

1. The present report of the United Nations High Commissioner for Human Rights is submitted pursuant to resolution 31/35, adopted by the Human Rights Council on 24 March 2016. In operative paragraph 8, the Council requested the High Commissioner to conduct "a comprehensive review detailing the status of implementation of the recommendations addressed to all parties since 2009 by the relevant Human Rights Council mechanisms, namely previous fact-finding missions, the commission of inquiry and special procedures, and by United Nations treaty bodies, the Office of the High Commissioner and the Secretary-General in his reports to the Human Rights Council, and to identify patterns of non-compliance, non-implementation and non-cooperation, to propose follow-up measures to ensure implementation ..."

2. During the thirty-fourth session of the Human Rights Council, the High Commissioner provided an oral update on the progress that had been made on the review. Since 2009, over 900 recommendations have been formulated to improve the human rights situation in the Occupied Palestinian Territory. Most of the recommendations have been addressed to Israel, but some have been addressed to the Government of the State of Palestine and other Palestinian duty bearers,[1] as well as to the United Nations, States members of the United Nations, businesses, civil society and the international community.

3. In accordance with Human Rights Council resolution 31/35, the present review attempts to illustrate the extent of implementation of these recommendations, including compliance with international law and cooperation with human rights mechanisms. The concluding sections identify patterns and propose measures to help implementation.

4. The presentation of the report coincides with the fiftieth year of Israeli occupation and the long-standing denial of the Palestinian people's right to self-determination. In its 2004 advisory opinion on the legal consequences on the construction of a wall in the Occupied Palestinian Territory, the International Court of Justice recalled that "the principle of self-determination of peoples has been enshrined in the United Nations Charter".[2] It referred to General Assembly resolution 2625 (XXV), in which it was noted that "every State has the duty to refrain from any forcible action which deprives peoples ... of their right to self-determination".[3] The Court also referred to the article 1 that is common both to the International Covenant on Economic, Social and Cultural Rights and to the International Covenant on Civil and Political Rights, which reaffirms the right of all peoples to self-determination.[4] The Court reiterated that "the right of peoples to self-determination is ... *erga omnes*".[5]

II. Scope of the review and methodology used

5. The present report reviews recommendations made between 2009 and 2016 by human rights mechanisms and offices enumerated in resolution 31/35.[6] To fulfil the

[1] Includes the Palestinian National Authority and the Gaza authorities.

[2] See A/ES-10/273, para. 88.

[3] See General Assembly resolution 2625 (XXV), annex.

[4] In A/ES-10/273, para. 111, the Court confirms the applicability of the International Covenant on Civil and Political Rights in respect of acts done by a State in the exercise of its jurisdiction outside its own territory.

[5] See A/ES-10/273, para. 88.

[6] See the annex to the present report for the full list of reports reviewed. The resolution did not encompass the reports of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories, nor the 2009 and 2014 boards of inquiry established by the Secretary-General.

requirement of a comprehensive review, requested in the resolution, the reports on the universal periodic reviews of Israel, issued in 2009 and 2013,[7] have been referenced.[8]

6. Most of the reports containing the recommendations under review have been presented before the Human Rights Council. However, where a body specified in paragraph 8 of resolution 31/35 also reports to the General Assembly,[9] these have also been included in the review. Similarly, as reports of the Secretary-General to the Human Rights Council typically stipulate that they are to be read in conjunction with reports to the General Assembly, these have also been reflected.

7. The individual assessment of the implementation of each recommendation is based on the most recent information[10] found in United Nations reports and from official domestic sources, civil society information and other credible sources.

8. On 20 December 2016, the Office of the United Nations High Commissioner for Human Rights (OHCHR) addressed notes verbales to the Permanent Mission of Israel, and to the Permanent Observer Mission of the State of Palestine. The State of Palestine responded through notes verbales on 21 December 2016 and 24 January 2017. To date, Israel has not officially responded.

9. The status of implementation of recommendations has been assessed in five categories: "implemented", "partially implemented", "unimplemented", "closed or no longer applicable" and "insufficient information".[11]

10. Most recommendations are addressed to Israeli and Palestinian authorities, some to the United Nations and the international community, and a relatively small number to other stakeholders such as civil society and businesses. To ensure comprehensiveness, the analysis covers recommendations to all parties, including those that relate to the duties of Member States and High Contracting Parties to the Fourth Geneva Convention and those that relate to *erga omnes* obligations.

11. The review is limited to recommendations applicable to the Occupied Palestinian Territory, grouped under seven thematic areas, ordered according to the total number of recommendations dedicated to each, as follows:

- Accountability and access to justice
- International engagement
- Arrest and detention
- Settlements

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[7] See A/HRC/10/76 and A/HRC/25/15.

[8] The State of Palestine has not undergone the universal periodic review process as it holds non-member observer State status in the United Nations (see General Assembly resolution 67/19).

[9] For instance, the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967.

[10] Up until 30 March 2017.

[11] Implemented: signifies that the necessary action has been taken to implement the recommendation and, where applicable, the violations or abuses have ceased.

Partially implemented: signifies that some relevant action aimed at implementing the recommendation has been taken or is ongoing, but that the recommendation has not been fully realized and, in some cases, the violations or abuses have not ceased.

Not implemented: signifies that no meaningful action or insufficient action has been taken to implement the recommendation, and may also refer to situations where measures were directly counterproductive to the implementation of the recommendations.

Closed or no longer applicable: refers to recommendations that are no longer relevant because the situation has changed.

Insufficient information: refers to the inability to make a determination due to inadequate or conflicting information available. It may also refer to recommendations that are so broadly stated as to render the question of their status of implementation open to interpretation and unsuitable for a firm and objective determination.

- Freedom of movement
- Other civil and political rights
- Economic, social and cultural rights

III. Recommendations by type of mechanism or office

12. Out of the 929 recommendations reviewed,[12] 773 fall within the mandated scope of the report and had their status of implementation appraised. Tables have been used throughout the report to provide an overview of the recommendations by report and by addressee and to illustrate their level of implementation. Where a certain category of implementation has not been applicable for the addressee (e.g. where none of the recommendations has been implemented or partially implemented), the corresponding column has been omitted from the table.

Table 1
Sources of recommendations

	Secretary-General	*High Commissioner*	*Fact-finding missions commissions of inquiry*	*Special procedures*	*Treaty bodies*	*Total*
Number of reports	22	8	3	21	10	64
Number of recommendations	143 (15%)	119 (13%)	65 (7%)	191 (21%)	411 (44%)	929

Table 2
Analysis of recommendations by party

	Secretary-General	*High Commissioner*	*Fact-finding missions commissions of inquiry*	*Special procedures*	*Treaty bodies*	*Total*
Israel	113	64	20	87	267	551
Palestinian authorities[13]	11	46	5	12	1	75
Palestinian armed groups	9	9	4	0	0	22
Parties to the conflict[14]	2	0	4	23	0	29
United Nations	4	0	20	32	0	56
International community	0	0	11	16	0	27
Civil society and businesses	2	0	1	10	0	13
Total	**141**	**119**	**65**	**180**	**268**	**773**

[12] Does not include universal periodic review recommendations.
[13] Includes the authorities in the West Bank and Gaza and the Government of the State of Palestine.
[14] Comprises recommendations addressed jointly to all parties to the conflict.

IV. Thematic areas

13. Just as human rights are indivisible, interdependent and interrelated, the recommendations that form the subject matter of the present review are interconnected. Additional analysis on each thematic area has been included in the forthcoming addendum to the present report, which includes key recommendations highlighting the method for assessing their implementation. Recommendations made to Israel in both rounds of the universal periodic review fall into the above-mentioned seven broad thematic areas.

A. Accountability and access to justice

14. Accountability and access to justice, representing 27 per cent of the recommendations (253), is the largest thematic area under review.

Table 3
Implementation of recommendations related to accountability and access to justice

	Israel				*Palestinian authorities*			*United Nations, international community, civil society*		
	Implemented	*Partially implemented*	*Not implemented*	*No longer relevant or insufficient information*	*Partially implemented*	*Not implemented*	*No longer relevant*	*Implemented*	*Partially implemented*	*Not implemented*
Accountability and investigations for violations of IHL and IHRL	1	4 (1)[15]	99 (9)	1	9 (1)	35 (9)	0	1	3	2
Compliance with IHL and IHRL	1	4	66 (3)	6 (1)	1	15 (2)	1	0	3	1
Death penalty	0	0	0	0	0	4	0	0	0	0
Cooperation with international mechanisms	0	0	0	1	0	0	0	0	1	2
Other	0	0	3 (1)	2 (2)	0	3 (1)	2 (2)	0	0	0
Total	**2 (1%)**	**8 (4%)**	**168 (90%)**	**9 (5%)**	**9 (13%)**	**56 (82%)**	**3 (4%)**	**1 (8%)**	**7 (54%)**	**5 (38%)**

Abbreviations: IHL, international humanitarian law; IHRL, international human rights law.

15. Impunity for violations of international humanitarian law and international human rights law in the Occupied Palestinian Territory has been a long-standing concern articulated by the United Nations and civil society.[16] The High Commissioner has expressed on several occasions "serious concerns regarding the lack of accountability related to past cycles of violence and escalation in Gaza and to incidents in the West Bank, including East Jerusalem, and in the access-restricted areas of the Gaza Strip".[17]

16. Over the years, successive reports have detailed serious failings of accountability at all levels, and by all duty bearers. The independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1 stated that "impunity prevails across the board for violations allegedly committed by Israeli forces, both in Gaza and the West

[15] The numbers in parentheses indicate the number of recommendations addressed to all parties.

[16] See, for example, A/68/502, section II, D; A/69/347, section III, E and F; and A/HRC/25/40, paras. 50-60. See also, for example, www.btselem.org/download/201605_occupations_fig_leaf_eng.pdf.

[17] See A/HRC/31/40/Add.1, para. 39.

Bank". It noted that "Israel must break with its lamentable track record in holding wrongdoers accountable" and that "accountability on the Palestinian side is also woefully inadequate".[18] Two years after the 2014 escalation, the Office for the Coordination of Humanitarian Affairs (OCHA) expressed serious concerns regarding the persistent "lack of investigations and accountability by both the Israeli and Palestinian authorities into alleged violations of international humanitarian law and international human rights law, including allegations of war crimes, as well as lack of civil remedies and compensation to victims".[19]

17. The Israeli investigation system for examining complaints and claims of violations of international humanitarian law includes civilian oversight of the military justice system, as well as reviews by public commissions of inquiry and fact-finding assessments. The public reports of the Turkel Commission and the Ciechanover review illustrate the efforts of Israel to strengthen its investigation system. The independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1 recognized the above and referred to the safeguards in place to preserve the independence of the Military Advocate-General.

18. This accountability system remains limited for violations in the Occupied Palestinian Territory on account of two sets of shortcomings: "physical, financial, legal and procedural barriers that restrict the ability of Palestinians, particularly those living in Gaza, to gain access to justice",[20] and the failure to investigate all allegations. The Secretary-General underlined that "findings suggest a consistent failure by the Military Advocate General, who heads the military justice system, and the Attorney General to open investigations in cases where there is prima facie evidence, including eyewitness testimony, medical reports and audiovisual materials indicating that actions by State agents were unlawful".[21] The dual role of the Military Advocate General, as both legal adviser to the Chief of General Staff and other military authorities and supervisor of disciplinary and criminal investigations, compromises the independence and impartiality of the investigative system, since the Military Advocate General is responsible for investigating violations carried out in operations for which he provided legal advice.

19. Israel has published information on its investigative structure and on selected investigations, including those related to allegations of violations by Israeli forces in the context of the 2014 Gaza conflict.[22] However, the noted failure to open investigations into all credible allegations and the lack of access to justice result in unimplemented recommendations related to investigations and to redress for victims. The shortcomings identified above compromise the ability of Israel to comply with international standards of independence, impartiality, promptness, thoroughness and effectiveness.

20. Lack of accountability by Israel is illustrated by the general absence of higher-level responsibility for violations of international humanitarian law in the 2008/09, 2012 and 2014 conflicts in Gaza, with only a handful of convictions, if any, issued for minor violations, such as theft and looting.[23] According to B'Tselem, the military law enforcement system is oriented towards soldiers and ignores the responsibility of high-level military commanders and policymakers.[24] Despite constructive recommendations by the Turkel Commission, mandated to examine the mechanisms used by Israel for investigating violations of the laws of armed conflict,[25] and follow-up by the Ciechanover Commission, the Secretary-General noted the lack of "significant improvements in accountability".[26] There is little available information, including in documents issued by the Government of

[18] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16119&LangID=E.

[19] See www.ochaopt.org/content/gaza-two-years-less-nine-cent-referred-incidents-have-led-criminal-investigation.

[20] See A/71/364, para. 40.

[21] Ibid.

[22] For example, update No. 5 of the Military Advocate General.

[23] See A/HRC/28/80/Add.1, para. 79; and A/HRC/34/36, para. 78.

[24] See www.btselem.org/download/201605_occupations_fig_leaf_eng.pdf, p. 36.

[25] See A/68/502, para. 29; and A/HRC/25/40, para. 77.

[26] See A/71/364, paras. 61-69.

Israel about the 2014 Gaza hostilities,[27] about reviews undertaken in any of the areas mentioned by the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1 (e.g. the definition of military objectives, targeting residential buildings and the effectiveness of precautionary measures).[28]

21. Regarding allegations of acts perpetrated outside active hostilities, the 2017 conviction of Sergeant Elor Azaria to 18 months' imprisonment for the manslaughter of Abdelfattah al-Sharif, a Palestinian who was incapacitated after being shot for allegedly stabbing an Israeli soldier, has been highlighted as exceptional for even reaching trial[29] but referred to as excessively lenient.[30] The Military Advocate General had asked for a sentence of 30 months' to 5 years' imprisonment.[31] The period following October 2015 saw an alarming rise in allegations of excessive use of force and extrajudicial killings by Israeli security forces.[32] The Government has taken steps to address crimes by Israeli settlers against Palestinians, including through intensified law enforcement,[33] which resulted in a decrease in reported incidents of settler violence. The need to investigate cases of settler violence and prosecute perpetrators remains.[34]

22. In 2016 and 2017, the High Commissioner expressed concern about the lack of progress in Palestinian accountability for violations of international humanitarian law and international human rights law,[35] and called for the expedited implementation of recommendations made to Palestinian authorities by the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1.

23. The Committee of independent experts in international humanitarian and human rights law established pursuant to Council resolution 13/9, established following the report of the United Nations Fact-Finding Mission on the Gaza Conflict, found that the Palestinian Independent Investigation Commission, mandated to follow up on the recommendations of the Mission, had "undertaken independent and impartial investigations in a comprehensive manner".[36] It noted obstacles to accountability stemming from the intra-Palestinian divide and from restricted access to Gaza. The Secretary-General reported the absence of meaningful investigations into alleged violations by Palestinian authorities regarding the hostilities in Gaza in 2014.[37]

24. In addition to lack of accountability for violations of international humanitarian law by Palestinian armed groups,[38] there are continuing concerns over accountability for alleged human rights violations by Palestinian authorities.[39] In 2015, the Government of the State of Palestine established the Independent National Committee of Investigation, mandated to evaluate investigations by Israeli and Palestinian authorities into allegations of serious violations of international humanitarian law and international human rights law. In January

[27] See http://mfa.gov.il/MFA/ForeignPolicy/IsraelGaza2014/Pages/2014-Gaza-Conflict-Factual-and-Legal-Aspects.aspx.

[28] See A/HRC/29/52, paras. 85-87.

[29] See A/71/364, para. 9; and A/HRC/34/36, para. 7.

[30] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21221&LangID=E.

[31] See www.i24news.tv/en/news/israel/139360-170306-israeli-army-prosecutors-may-seek-longer-sentence-for-hebron-shooter-report.

[32] "Cases of excessive use of force by Israeli forces against Palestinians, including some which appear to amount to summary executions, continue to be reported and some have been captured on video": see www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=16759&LangID=E.

[33] See A/71/355, para. 20; and A/HRC/31/43, paras. 40-43.

[34] See A/71/355, para. 50.

[35] See A/HRC/31/40/Add.1, para. 65; A/HRC/34/36, para. 79; and www.ochaopt.org/sites/default/files/gaza_war_2_years_after_english.pdf.

[36] See A/HRC/16/24, para. 53.

[37] See A/HRC/34/38, para. 42.

[38] Briefings to the Security Council given on 29 August 2016 and 16 February 2017 by the Special Coordinator for the Middle East Peace Process.

[39] See A/HRC/34/38, para. 52.

2017, its first report was presented to the Government of the State of Palestine and shared with OHCHR.[40]

25. In 2016, the Secretary-General stated that "the lack of any significant movement towards a political resolution and ongoing violations of international human rights and humanitarian law are exacerbated by the lack of accountability for previous violations. That feeds the cycle of violence and compromises chances for sustainable peace and security. Tackling impunity must be the highest priority".[41]

B. International engagement

26. A total of 141 recommendations (15 per cent) called for engagement with international human rights mechanisms and for general implementation and compliance with international law.

Table 4
Implementation of recommendations related to international engagement

	Israel			*Palestinian authorities*				*International community*			
	Partially implem.	*Not implem.*	*Insufficient information*	*Implem.*	*Partially implem.*	*Not implem.*	*No longer relevant insufficient information*	*Implem.*	*Partially implem.*	*Not implem.*	*Insufficient information*
General implementation of international standards and recommendations	2	26	2	0	2	0	1	8	8	10	6
Cooperation with international mechanisms	3	2	0	0	0	0	0	0	1	3	1
Actions conducive to peace	2	4	2	0	1	2	0	2	6	12	6
Other	0	13	8	1	1	0	1	0	2	1	2
Total	**7 (13%)**	**45 (86%)**	**4 (7%)**	**1 (11%)**	**4 (44%)**	**2 (22%)**	**2 (22%)**	**10 (15%)**	**17 (25%)**	**26 (38%)**	**15 (22%)**

27. While the United Nations, including OHCHR,[42] continues to systematically document the human rights situation in the Occupied Palestinian Territory and to promote implementation of its own resolutions, decisions and recommendations, "resolutions and communiqués alone are not enough. What is required is action. Action by the leaders themselves. Action by the international community and the region" — as noted by the United Nations Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General to the Palestine Liberation Organization and the Palestinian Authority (Special Coordinator for the Middle East Peace Process).[43]

28. Recommendations calling for the implementation of international human rights standards and previous recommendations made by the United Nations remain largely unimplemented by Israel and by Palestinian authorities. As noted by the Secretary-General,

[40] Note verbale from the State of Palestine, 21 December 2016.

[41] See A/71/364, para. 6.

[42] See, for example, A/71/364; A/71/355; A/HRC/34/36; and the report of the Secretary-General on Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan, available from www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session34/Pages/ListReports.aspx.

[43] At the Ministerial Council of the League of Arab States on 7 March 2017 in Cairo.

"all previous recommendations of the United Nations human rights treaty bodies and other mechanisms … which remain valid, must be fully and promptly implemented".[44]

29. Several Member States have recommended to Israel in the universal periodic review process to respect the right of Palestinians to self-determination, end the occupation and desist from measures seeking to change the character or legal status of East Jerusalem.

C. Arrest and detention

30. The analysis includes 106 recommendations that concern arrest and detention — these constitute 11 per cent of the total.

Table 5
Implementation of recommendations related to conditions of detention

	Israel		*Palestinian authorities*		*Human Rights Council*
	Partially implemented	*Not implemented*	*Partially implemented*	*Not implemented*	*Not implemented*
Treatment of children	6	46	0	6	0
Treatment of adults	1	19	1	4	0
Administrative detention	0	13	0	1	1
Judicial guarantees	0	5	0	8	1
Total	**7 (8%)**	**83 (91%)**	**1 (1%)**	**13 (100%)**	**2 (100%)**

31. The recommendations call on Israel to bring its policies and practices relating to the treatment of children in line with international standards, including using detention as a last resort, conducting arrests during daylight hours only, providing legal counsel before interrogation and ending administrative detention. Since the establishment of juvenile military courts in 2009, Israel has adopted some relevant measures, such as increasing the age of majority from 16 to 18 years for the purposes of adjudication and providing other safeguards for minors.[45] In 2013, the United Nations Children's Fund (UNICEF) noted that "the ill-treatment of children who come in contact with the military detention system appears to be widespread, systematic and institutionalized throughout the process".[46] In 2015, UNICEF indicated the need for "further actions to improve the protection of children in military detention, as reports of alleged ill-treatment of children during arrest, transfer, interrogation and detention have not significantly decreased".[47]

32. As at August 2016, Israel held 319 Palestinian children as "security detainees and prisoners" — an 82 per cent increase compared to 2015.[48] Several organizations continue to document night arrests, lack of access to lawyers, lack of information about their rights and systematic violence.[49] In 2016, the Secretary-General stated that the number of children detained "raises concerns about meeting international law requirements that children be

[44] See A/HRC/34/38, para. 79.
[45] See www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No._2_-_February_2015.pdf.
[46] See www.unicef.org/oPt/UNICEF_oPt_Children_in_Israeli_Military_Detention_Observations_and_Recommendations_-_6_March_2013.pdf.
[47] See www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No._2_-_February_2015.pdf.
[48] Official data provided to B'Tselem, available from www.btselem.org/statistics/minors_in_custody.
[49] See www.btselem.org/detainees_and_prisoners/minors_in_custody, www.unicef.org/oPt/Children_in_Israeli_Military_Detention_-_Observations_and_Recommendations_-_Bulletin_No._2_-_February_2015.pdf and www.militarycourtwatch.org/page.php?id=MmNuAkpGesa613395AWw2bO0pT3K.

arrested and detained only as a last resort"[50] and noted with concern the reinstating of administrative detention of children, unused since 2011.[51] Despite legal reforms undertaken by Israel, human rights treaty bodies have expressed concern that they have not been consistently applied, noting a gap between policy and practice.[52]

33. Other recommendations urge Israel to ensure that detainees are not subjected to force-feeding or forced medical treatment, otherwise subjected to ill-treatment or punished for engaging in hunger strikes. In September 2016, the Supreme Court of Israel ruled that the legislative amendment allowing such forced treatment meets the constitutionality test.[53]

34. Recommendations to Palestinian authorities in the West Bank and in Gaza have called for ending arbitrary arrests, administrative detention, torture and ill-treatment and for compliance with international standards to be ensured. In 2016, arbitrary arrests and detention by Palestinian security forces continued. In 2015, the Independent Commission for Human Rights[54] received 1,700 complaints (782 in the West Bank and 918 in Gaza) on violations of due process of law, including arbitrary detention on political grounds.[55] In March 2017, OHCHR documented ongoing allegations of torture and ill-treatment of Palestinian detainees in the West Bank and in Gaza.[56]

D. Settlements

35. Ninety-three recommendations, or 10 per cent of all recommendations, address the presence of Israeli settlements in the West Bank, including East Jerusalem, and their impact on human rights.

Table 6
Implementation of recommendations related to settlements

	Israel	*International community Member States*		*Civil society*		*Businesses*		*Human Rights Council*
	Not implemented	Partially implemented	Not implemented	Partially implemented	Implementation information	Not implemented	Implementation information	Not implemented
Settlement expansion	20	0	0	0	0	0	0	1
Zoning and building permits	18	0	0	0	0	0	0	0
Forced transfer	20	0	0	0	0	0	0	0

[50] See A/71/86-E/2016/13, para. 24, available from www.un.org/ga/search/view_doc.asp?symbol=A/71/86&Lang=E&Area=UNDOC.
[51] See A/70/836-S/2016/360, para. 75, available from www.un.org/ga/search/view_doc.asp?symbol=A/70/836&Lang=E&Area=UNDOC.
[52] See CCPR/C/ISR/CO/4, para. 19, and CAT/C/ISR/CO/5, para. 28.
[53] See www.loc.gov/law/foreign-news/article/israel-law-authorizing-force-feeding-of-prisoners-held-constitutional/.
[54] The national human rights institution.
[55] Independent Commission for Human Rights, *The Status of Human Rights in Palestine: Twenty-First Annual Report, 2015* (issued in 2016), pp. 186 and 187.
[56] See A/HRC/34/38, para. 70.

	Israel	International community/Member States		East Jerusalem		Businesses		Human Rights Council
	Not implemented	Partially implemented	Not implemented	Partially implemented	Insufficient information	Not implemented	Insufficient information	Not implemented
Demolitions and displacement	16	0	0	0	0	0	0	0
Businesses' engagement in settlements	3	2	1	1	1	4	2	0
Exploitation of natural resources	1	0	0	0	0	0	0	0
Human rights violations linked to settlements	3	0	0	0	0	0	0	0
Total	**81 (100%)**	**2 (67%)**	**1 (33%)**	**1 (50%)**	**1 (50%)**	**4 (67%)**	**2 (33%)**	**1 (100%)**

36. Despite recurring recommendations to Israel to cease maintaining and expanding settlements and to address their human rights impact, the construction of settlements continues: in March 2017, Israel approved the establishment of a new settlement and declared some 240 acres as "State land" inside the Occupied Palestinian Territory and issued tenders for approximately 2,000 housing units.[57] By the end of 2014, there were approximately 570,700 Israeli settlers, including 200,000 in East Jerusalem.[58]

37. The planning and zoning regime is the main strategy used by Israel to prevent Palestinians from building in the West Bank, including East Jerusalem. Several recommendations focus on discriminatory policies and practices that make it "almost impossible for Palestinians to obtain building permits in the vast majority of Area C and East Jerusalem".[59] In 2016, Israeli authorities demolished or seized 1,093 Palestinian-owned structures, displacing over 1,600 Palestinians and affecting the livelihoods of more than 7,000 others — the highest figures since OCHA started documenting them in 2009.[60] The United Nations has documented that hundreds of families remain at risk of forcible transfer, linked to demolitions and settlement expansion.[61]

38. Physically detached from the West Bank, East Jerusalem has ceased to be the economic and social centre for the Occupied Palestinian Territory due to the wall and the presence and expansion of 12 Israeli settlements.[62] Israeli settlers are appropriating properties in Palestinian neighbourhoods through ownership claims and the Absentees' Property Law,[63] restricting public space, residential growth and freedom of movement.[64]

[57] Briefing to the Security Council given on 20 April 2017 by the Special Coordinator for the Middle East Peace Process.

[58] See A/HRC/31/43, para. 9.

[59] See www.ochaopt.org/content/33-structures-demolished-past-three-days-multiple-incidents.

[60] See www.ochaopt.org/content/record-number-demolitions-and-displacements-west-bank-during-2016.

[61] See A/71/355.

[62] See A/71/554.

[63] See https://unispal.un.org/DPA/DPR/unispal.nsf/0/E0B7148F92C3B49885256F9A005AB90A and www.nevo.co.il/law_html/Law01/313_001.htm.

[64] See www.ochaopt.org/content/east-jerusalem-palestinians-risk-eviction.

39. In December 2016, Security Council resolution 2334 (2016) explicitly condemned "measures aimed at altering the demographic composition, character and status of the Palestinian Territory … including … construction and expansion of settlements, transfer of Israeli settlers, confiscation of land, demolition of homes and displacement of Palestinian civilians" and stated that the "establishment by Israel of settlements in the Palestinian territory occupied since 1967, including East Jerusalem, has no legal validity and constitutes a flagrant violation under international law and a major obstacle to the achievement of the two-State solution and a just, lasting and comprehensive peace". The Security Council stressed that "the cessation of all Israeli settlement activities is essential for salvaging the two-State solution".

40. Eleven recommendations concern businesses, civil society and Member States, and call for investigations of the activities of companies and financial institutions profiting from Israeli settlements, and for such practices to be ended and for reparation to be provided to Palestinians affected.

E. Freedom of movement

41. The reports contain 79 recommendations on freedom of movement, constituting 9 per cent of all the recommendations.

Table 7
Implementation of recommendations related to freedom of movement

	Israel			*Gaza authorities*	*Human Rights Council*
	Partially implemented	*Not implemented*	*Insufficient information*	*Not implemented*	*Not implemented*
Blockade	0	28	0	0	1
Wall	0	5	0	0	0
Freedom of movement between Gaza and West Bank	1	19	0	0	0
Restrictions impacting on humanitarian aid	0	14 (2)	0	2 (2)	0
Restrictions impacting on economic development	0	5	0	0	0
Enforcement of access restrictions	0	4	0	0	0
Residency rights	0	1	1	0	0
Total	**1 (1%)**	**76 (97%)**	**1 (1%)**	**2 (100%)**	**1 (100%)**

42. Israel has failed to dismantle the wall and has pursued construction in the Occupied Palestinian Territory in breach of its international law obligations.[65] Eighty-five per cent of the planned route of the wall of over 700 kilometres runs within the West Bank.[66] The International Court of Justice found that "the wall's sinuous route has been traced in such a

[65] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports (2004)*, p. 136; and www.ochaopt.org/content/2015-overview-movement-and-access-restrictions.

[66] See A/71/86-E/2016/13, para. 63, available from www.un.org/ga/search/view_doc.asp?symbol=A/71/86&Lang=E&Area=UNDOC.

way as to include within that area the great majority of … settlements"[67] and stated that "the wall … and its associated regime gravely infringe a number of rights of Palestinians … and the infringements resulting from that route cannot be justified by military exigencies or by the requirements of national security or public order".[68] According to the United Nations Conference on Trade and Development, "at least 10 per cent of the most fertile land in the West Bank has been lost due to construction of the Separation Barrier".[69]

43. Further restrictions in the form of checkpoints, where violence frequently erupts,[70] permit requirements, and settlement infrastructure, have continued to negatively affect Palestinians' daily lives in the West Bank, including access within and into East Jerusalem.[71] The Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 described the situation as one where "the West Bank has been divided by Israel into an archipelago of small islands of densely populated areas disconnected from one another".[72]

44. Following the gaining of control in Gaza in 2007 by Hamas, Israel established a blockade[73] in breach of international humanitarian law.[74] This measure severely curtails freedom of movement of goods and people to and from Gaza,[75] and violates a broad spectrum of other human rights, including access to health, water and sanitation, work, housing, food and education.[76] While there are fluctuations in the extent of the restrictions, the blockade has remained firmly in place.[77] In his most recent report, the Secretary-General indicated that it may amount to collective punishment.[78] Massive needs for reconstruction of infrastructure, health facilities and housing stem from the destruction and injuries that have followed successive rounds of hostilities in Gaza, most recently in 2014.[79] While the 2016 report of the United Nations country team showed progress since 2014, it described long delays for approval of reconstruction materials due to Israel's dual-use list. The report also noted the negative impact of the Palestinian political divide on the humanitarian situation.

F. Other civil and political rights

45. Fifty-eight recommendations, 6 per cent of the total, address issues related to other civil and political rights.

[67] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, p. 183.
[68] Ibid., p. 193.
[69] See TD/B/63/3, para. 42 (f).
[70] See, for example, A/70/836-S/2016/360, available from www.un.org/ga/search/view_doc.asp?symbol=A/70/836&Lang=E&Area=UNDOC, and www.unrwa.org/sites/default/files/content/resources/children_in_distress_briefing_note.pdf.
[71] See A/HRC/31/44, paras. 21 and 34.
[72] See A/71/554, paras. 41 and 49, and A/HRC/34/38, para. 29.
[73] See www.mfa.gov.il/mfa/pressroom/2007/pages/security%20cabinet%20declares%20gaza%20hostile%20territory%2019-sep-2007.aspx.
[74] See A/HRC/34/38, paras. 31-33.
[75] See A/HRC/31/73 and A/HRC/31/40.
[76] See www.ochaopt.org/content/gaza-strip-humanitarian-impact-blockade-november-2016.
[77] See www.ochaopt.org/sites/default/files/gaza_war_2_years_after_english.pdf, p. 11.
[78] See A/HRC/34/38, para. 31.
[79] See www.ochaopt.org/sites/default/files/gaza_war_2_years_after_english.pdf.

Table 8
Implementation of recommendations related to other civil and political rights

	Israel			*Palestinian authorities*		
	Partially implemented	*Not implemented*	*Insufficient information*	*Partially implemented*	*Not implemented*	*Insufficient information*
Freedom of expression, assembly and association	0	12	1	0	17	4
Freedom of thought, conscience and religion	2 (1)	8 (1)	0	1 (1)	1 (1)	0
Right to protection of family	0	10	2	0	0	0
Palestinian political unity	0	0	0	0	2	0
Total	**1 (3%)**	**29 (88%)**	**3 (9%)**	**1 (8%)**	**9 (69%)**	**3 (23%)**

46. Over 25 per cent of the recommendations urge Palestinian authorities to ensure that civil society organizations, human rights defenders and local and foreign journalists can perform their work in a safe and free environment, without intimidation, harassment or interference. The recommendations also call on Israel to cease actions that limit criticism by journalists, other individuals and civil society organizations, both Israeli and Palestinian. The latest report by OHCHR shows that "significant concerns remain regarding violations and abuses by all duty bearers of the rights to freedom of expression, peaceful assembly and association. Israeli and Palestinian authorities impose restrictions and subject both Israeli and Palestinian human rights defenders focusing on the Occupied Palestinian Territory to pressure and harassment."[80]

47. The recommendations related to the right to freedom of thought, conscience and religion refer to the right of Palestinians to participate in religious life without restrictions and call on Israel to facilitate access to places of worship and ensure their protection without discrimination. Israeli and Palestinian authorities are called upon to discontinue the indication of religious affiliation on identity cards. The Israeli and West Bank authorities have complied with this recommendation but the Gaza authorities have not. Some recommendations have also called on all parties to legally bind themselves to protect religious minorities, in the framework of a possible peace agreement. Limitations on access to religious sites, including the Al-Aqsa Mosque in East Jerusalem,[81] have remained of concern.[82]

G. Economic, social and cultural rights

48. The reports contain 63 recommendations (7 per cent of the total) related to economic, social and cultural rights.

[80] See A/HRC/34/38, para. 69.
[81] See also the United Nations Educational, Scientific and Cultural Organization (UNESCO) 200 EX/Decisions (200 EX/25), of 2016.
[82] See A/71/355, para. 29.

Table 9
Implementation of recommendations related to economic, social and cultural rights

	Israel			*Palestinian authorities*			*International community*		
	Partially implemented	*Not implemented*	*Insufficient information*	*Partially implemented*	*Not implemented*	*Insufficient information*	*Partially implemented*	*Not implemented*	*Insufficient information*
Right to health	0	11	2	0	1	0	1	1	0
Right to education	1	12	3	0	2	0	0	0	0
Right to water	1	5	0	1	0	0	0	0	0
Right to adequate standard of living, food, clothing, housing	(1)	6 (1)	2	2 (1)	1	0	0	0	0
Right to development	0	2	2	0	0	2	0	0	1
Total	**3 (6%)**	**37 (76%)**	**9 (18%)**	**4 (40%)**	**4 (40%)**	**2 (20%)**	**2 (67%)**	**1 (33%)**	**3 (33%)**

49. Almost one third of the recommendations address the right to health, including the physical and psychological recovery of persons affected by violence. Many recommendations call on Israel to promptly grant permissions for patients with medical referrals for treatment outside Gaza, and to ensure unimpeded access for medical personnel so that assistance is promptly provided to individuals wounded by Israeli security forces. The World Health Organization has noted that only 41.7 per cent of patients obtained permits in December 2016 — the lowest approval rate since 2009.[83] The Secretary-General has raised concern over reports of arbitrary deprivation of life as a result of Israel's practice of preventing Palestinian first responders from treating wounded Palestinians suspected of attacks,[84] which violates international standards prohibiting the obstruction of prompt medical assistance.

50. Another third of the recommendations address access to education, and call for the protection of children from harassment, intimidation and violence by Israeli settlers on the way to and from school, which are still ongoing.[85] Recommendations also urge parties to protect schools from attacks, and to ensure they are not used as military bases or as detention, storage or recruitment centres. Recommendations also call for more classrooms in East Jerusalem and Gaza.

51. The 2016 Humanitarian Response Plan indicated that access to education was impeded by checkpoints, the wall, military and armed group activities, settler-related incidents and lack of infrastructure.[86] The Secretary-General reported on attacks on schools and protected education personnel in the West Bank during military-led operations[87] and on the storage of weapons in three United Nations Relief and Works Agency for Palestine

[83] See www.emro.who.int/images/stories/palestine/WHO_monthly_Gaza_access_report-Dec_2016-Final.pdf?ua=1.

[84] See A/71/364, para. 11.

[85] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20565&LangID=E.

[86] See https://www.ochaopt.org/documents/2016_hrp_22_january%202016.pdf, p. 29.

[87] See A/70/836-S/2016/360, para. 76, available from www.un.org/ga/search/view_doc.asp?symbol=A/70/836&Lang=E&Area=UNDOC.

Refugees in the Near East (UNRWA) schools by Palestinian armed groups and the 21 instances of use of school premises by Israeli security forces.[88]

52. Some recommendations urge Israel to facilitate the entrance into Gaza of all material and equipment necessary for the construction and repair of water and sanitation facilities, and to ensure that all residents of the West Bank have equal access to water, in accordance with World Health Organization quality and quantity standards. In 2016, Israel designated over 70 per cent of the materials needed for water, sanitation and hygiene projects as dual-use items, placing at least 30 water and wastewater projects in Gaza at risk of cancellation.[89] Israel's discriminatory allocation of water also results in unequal water consumption in the West Bank: Palestinian consumption is limited to 40 litres per capita per day, while Israeli settlers use 183 litres.[90] The 2016 Humanitarian Response Plan indicated that 732,000 people lacked access to safe drinking water in the Occupied Palestinian Territory.

V. Patterns of cooperation, compliance and implementation

Cooperation

53. In March 2012, the Government of Israel suspended relations with the Human Rights Council and OHCHR. In October 2013, Israel renewed contacts with both bodies with a view to re-establishing full relations.[91] During the suspension, OHCHR continued working in the Occupied Palestinian Territory.

54. Two special rapporteurs with thematic mandates conducted official visits to Israel and the Occupied Palestinian Territory between 2009 and 2012.[92] Thereafter, no mission took place until the Special Rapporteur on violence against women, its causes and consequences visited in September 2016.[93] The Special Rapporteur remarked upon the "excellent cooperation" that she had received from Israel and the State of Palestine. The State of Palestine issued a standing invitation to all special procedure mandate holders in 2014. Israel has not issued a standing invitation.

55. In the past, Israel cooperated with the mandate of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967.[94] However since 2008, Israel has refused to cooperate with, and denied access to, three successive mandate holders, stating its objections to the Special Rapporteur's mandate[95] which it considers politically biased. The serving Special Rapporteur has unsuccessfully sought to meet with the Permanent Missions of Israel to the United Nations in Geneva and in New York. The Palestinian National Authority and, upon its establishment in 2012, the State of Palestine have continued to extend full cooperation to the mandate. Between 2006 and 2016, Israel responded to one third of the letters of allegation and urgent appeals sent by the Special Rapporteur.[96]

56. In his statement to the Human Rights Council in September 2016, the High Commissioner stressed that "human rights violations will not disappear if a government blocks access to international observers" and that "efforts to duck or refuse legitimate scrutiny" only raise obvious questions. Israel failed to cooperate with any of the fact-

[88] See A/69/926-S/2015/409, paras. 102 and 103, available from www.un.org/ga/search/view_doc.asp?symbol=A/69/926.

[89] See A/71/86-E/2016/13, para. 69, available from www.un.org/ga/search/view_doc.asp?symbol=A/71/86.

[90] Ibid., para. 71.

[91] See http://mfa.gov.il/MFA/InternatlOrgs/Speeches/Pages/Israel-UPR-UN-Human-Rights-Council-29-Oct-2013.aspx.

[92] See www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsF-M.aspx.

[93] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20565&LangID=E; A/HRC/10/8/Add.2; A/HRC/20/17/Add.2; and A/HRC/22/46/Add.1.

[94] See A/69/301, section III.

[95] See Commission on Human Rights resolution 1993/2 and Human Rights Council resolution 5/1.

[96] See the special procedures database at https://spcommreports.ohchr.org/Tmsearch/TMDocuments.

finding missions or commissions of inquiry established by the Human Rights Council between 2009 and 2016. The Palestinian National Authority and, upon its establishment in 2012, the State of Palestine have cooperated fully with these mechanisms.

57. Israel regularly cooperates with human rights treaty bodies, providing reports and engaging in dialogue with the relevant committees. Israel does not include information related to the implementation of human rights treaties in the Occupied Palestinian Territory, claiming their non-applicability. In 2014, the State of Palestine acceded to seven core human rights treaties and one optional protocol,[97] and has requested technical assistance from OHCHR on reporting under those treaties. At the time of drafting, the State of Palestine had seven overdue reports, which were overdue by less than five years.[98] In 2016, OHCHR and the Independent Commission for Human Rights supported the organization of national consultations on the report to the Committee on the Elimination of Discrimination against Women, which was then submitted on 10 March 2017.

58. Thus, between 2009 and 2016, Israel only engaged selectively with the international human rights system. The Government of the State of Palestine has generally cooperated with the system, although it has reports outstanding to human rights treaty bodies.

Compliance and implementation

59. The International Court of Justice has ruled on the applicability of international humanitarian law and international human rights law in the Occupied Palestinian Territory.[99] Human rights treaty bodies consistently affirm that the human rights obligations of Israel extend to the Occupied Palestinian Territory,[100] and both the Secretary-General[101] and the High Commissioner[102] have regularly articulated the applicable legal framework.

60. The overall rate of "full implementation" by Israel is 0.4 per cent.[103] The lack of implementation correlates with Israel's continued rejection of the applicable legal framework and of its obligations in the Occupied Palestinian Territory. During its second universal periodic review, Israel provided an unofficial annex regarding recommendations pertaining to the West Bank[104] and Gaza, reiterating that it did not consider itself bound by human rights instruments beyond the borders of Israel. Formally, Israel did not support the majority of the recommendations referred to in the document.[105] While Israel denies the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) in the Occupied Palestinian Territory, it accepts its application de facto.[106]

61. The overall rate of "full implementation" by Palestinian duty bearers is 1.3 per cent.[107] By acceding to seven core human rights treaties, one protocol and the Geneva Conventions, all without reservations,[108] the State of Palestine has expressed its

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[97] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14556&.

[98] See http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/LateReporting.aspx.

[99] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, p. 136. Within the Advisory Opinion, see the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), at para. 101; of the Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land (The Hague, 18 October 1907), at para. 124; and of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, at paras. 106 and 111-113.

[100] See, for example, CRC/C/ISR/CO/2-4, para. 3; and CAT/C/ISR/CO/5, para. 8.

[101] See, for example, A/69/347, paras. 3-6.

[102] See A/HRC/12/37, paras. 5-9.

[103] Two recommendations fully implemented and 20 partially implemented, out of 550.

[104] The document did not reference East Jerusalem.

[105] See www.ohchr.org/EN/HRBodies/UPR/Pages/ILIndex.aspx.

[106] See A/ES-10/248, annex I, para. 3; and www.icrc.org/eng/assets/files/review/2013/irrc-888-maurer.pdf, p. 1506.

[107] One recommendation fully implemented and 12 partially implemented, out of 75.

[108] See https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=PS&nv=4.

commitment to protecting human rights. While the occupation and the intra-Palestinian political divide present challenges to the fulfilment of the obligations of the State of Palestine, greater efforts are required to increase implementation by all Palestinian duty bearers.

62. The overall rate of "full implementation" by the United Nations and the international community is 17.9 per cent.[109] Since 1967, the international community has repeatedly reminded parties to the conflict of their obligations under international law. United Nations bodies have consistently reported on the persistent violations in the Occupied Palestinian Territory and identified their long-term impact and risks for Palestinians, Israelis and the whole region. Despite these incessant calls and the support provided to Palestinian and Israeli authorities in their peace efforts, not enough has been done by the international community to that effect. It was stressed in Security Council resolution 2334 (2016) that "the status quo is not sustainable" and that "significant steps … are urgently needed in order to (i) stabilize the situation and to reverse negative trends on the ground, which are steadily eroding the two-State solution and entrenching a one-State reality, and (ii) to create the conditions … for advancing the two-State solution through … negotiations and on the ground".

VI. Follow-up measures

63. The recommendations by human rights mechanisms and by the Secretary-General and the High Commissioner show a general consensus on the measures that parties must take in order to further compliance with international humanitarian law and international human rights law: the ending of practices that continue to violate international law (such as the blockade, the construction of the wall and the expansion of settlements), and ensuring accountability for past violations, including war crimes.

64. Given the non-implementation of most recommendations on accountability, both sides are urged to intensify efforts to investigate all allegations of violations of international human rights law and international humanitarian law, in line with international standards.

A. Israel

65. Israel bears primary responsibility for the implementation of recommendations addressed to it and is bound by international human rights law and international humanitarian law obligations, including the Fourth Geneva Convention, in the Occupied Palestinian Territory.[110]

66. OHCHR has published *National Mechanisms for Reporting and Follow-up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms*, on how a Government can enhance its institutions to better engage with international and regional human rights mechanisms. OHCHR continues to stand ready to support Israel to fulfil the recommendations addressed to it.

67. **The High Commissioner proposes that Israel make full use of OHCHR technical assistance to help with the implementation of the relevant recommendations, which includes the development of national mechanisms for reporting and following up on recommendations. The High Commissioner reminds Israel of its obligations under the international human rights instruments that it has ratified, and under the Geneva Conventions, to which it is a High Contracting Party, and calls on Israel to fully comply with them in the Occupied Palestinian Territory.**

68. The High Commissioner takes note of the preliminary examination launched by the Prosecutor of the International Criminal Court in January 2015 into the situation in Palestine to establish whether the Rome Statute criteria for opening an investigation are

[109] Ten recommendations fully implemented and 10 partially implemented, out of 56.

[110] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, para. 101.

met.[111] The High Commissioner is encouraged by Israel's dialogue with the Office of the Prosecutor.[112]

69. **The High Commissioner notes the repeated failure to comply with the calls for accountability made by the entire human rights system and urges Israel to conduct prompt, impartial and independent investigations of all alleged violations of international human rights law and all allegations of international crimes. Furthermore, the High Commissioner calls upon Israel to ensure that all victims have access to remedies and reparation.**

B. State of Palestine

70. The State of Palestine is bound by international human rights and international humanitarian law instruments and bears primary responsibility for the implementation of recommendations addressed to it. The cooperation of the State of Palestine with the Office of the Prosecutor of the International Criminal Court is encouraging.

71. **The High Commissioner notes the State of Palestine's non-compliance with the calls for accountability and urges the State of Palestine to conduct prompt, impartial and independent investigations of all alleged violations of international human rights law and all allegations of international crimes. Furthermore, the High Commissioner calls upon the State of Palestine to ensure that all victims have access to remedies and reparation.**

72. The cooperation by the State of Palestine with the human rights system provides scope for enhanced engagement for the implementation of recommendations. The OHCHR practical guide on national mechanisms for reporting and follow-up provides concrete support on how to better engage with international and regional human rights mechanisms. OHCHR is encouraged that the State of Palestine is working towards the establishment of national mechanisms for reporting and follow-up and stands ready to support the State of Palestine to fulfil the recommendations addressed to it.

73. **The High Commissioner proposes that the State of Palestine make full use of the technical assistance available through OHCHR to help with the implementation of recommendations addressed to it, including the development of national mechanisms for reporting and following up on recommendations.**

C. The international community

74. In 2004, the International Court of Justice concluded that all States had the obligation "not to recognize the illegal situation resulting from the construction of the wall in the Occupied Palestinian Territory, including in and around East Jerusalem"[113] and to ensure that any impediment to the right to self-determination of the Palestinian people was brought to an end. The Court also referred to the obligation of the High Contracting Parties to the Fourth Geneva Convention to ensure Israel's compliance with international humanitarian law. In 2009, several special procedure mandate holders[114] recalled the obligation of all States to cooperate "to bring to an end through lawful means" any serious breach of a peremptory norm of international law, and to ensure respect for international humanitarian law. In his 2017 report,[115] the Secretary-General recalls the illegality of

[111] This followed the lodging by the Government of the State of Palestine of a declaration under article 12 (3) of the Rome Statute accepting the jurisdiction of the International Criminal Court "over alleged crimes committed 'in the occupied Palestinian territory, including East Jerusalem, since June 13, 2014'", and its accession to the Rome Statute in January 2015: see www.icc-cpi.int/palestine.

[112] See www.icc-cpi.int/iccdocs/otp/OTP-PE-rep-2015-Eng.pdf. See also https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-PE_ENG.pdf.

[113] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, p. 200.

[114] See A/HRC/10/22, para. 105.

[115] See A/HRC/34/38.

settlements and the wall in the Occupied Palestinian Territory, and that measures that may amount to collective punishment, such as the blockade on Gaza, are contrary to international humanitarian law.

75. **The High Commissioner suggests the Human Rights Council consider recommending to the General Assembly that it make use of its powers under Article 96 (a) of the Charter of the United Nations in order to specify how all parties can fulfil their obligations in implementing the recommendations reviewed in the present report.**

76. The role of States and businesses in addressing the human rights impact of businesses in the Occupied Palestinian Territory has been the subject of increasing attention.[116] Under the Guiding Principles on Business and Human Rights, "business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved" (principle 11). In 2014, the Working Group on the issue of human rights and transnational corporations and other business enterprises stated in the context of Israeli settlements that "where an enterprise cannot effectively prevent or mitigate an adverse human rights impact ... it should consider whether its continued operation can be reconciled with its responsibility to respect human rights and act accordingly".[117] The Working Group also noted that: "States that are 'home State' of business enterprises operating in or connected with settlements in the OPT should engage with such enterprises at the earliest possible stage to provide advice and guidance, and should make clear the State's policy in regard to the settlements."[118]

77. **OHCHR stands ready to advise and support States, companies and relevant bodies of the United Nations on the implementation of the Guiding Principles on Business and Human Rights, including in the context of Human Rights Council resolution 31/36.**

78. In 2004, the International Court of Justice emphasized "the urgent necessity for the United Nations as a whole to redouble its efforts to bring the Israeli-Palestinian conflict, which continues to pose a threat to international peace and security, to a speedy conclusion".[119] However, successive rounds of hostilities, and ongoing violence and violations, including those linked to Israeli settlement expansion, show that the occupation and the conflict are deepening.

79. The Human Rights Up Front initiative[120] and action plan are aimed at strengthening the ability of the United Nations to prevent and respond to serious human rights violations and complex crises. Human Rights Up Front cuts across the three indivisible pillars of the United Nations: peace and security, development, and human rights. For the sustainable success of any negotiated political endeavour, it is imperative to bring the parties together in mutual recognition that respect for international human rights law and international humanitarian law must be at the forefront of peace efforts.

80. **The High Commissioner reiterates the calls to all States and to relevant United Nations bodies to take all measures necessary to ensure full respect of and compliance with the relevant resolutions of the Human Rights Council, the General Assembly and the Security Council, including Security Council resolution 2334 (2016).**

81. All stakeholders must recognize that compliance with international law is a sine qua non condition for peace. Reports analysed in the present review indicate that the general patterns of human rights violations and non-implementation of recommendations are not just symptoms of the conflict but further fuel the cycle of violence. To break this cycle, the root causes must be addressed: these include bringing the occupation to an end and addressing the security concerns of Israel. Creating the space for peace demands the

[116] See A/HRC/22/63 and A/HRC/34/39.
[117] See www.ohchr.org/Documents/Issues/Business/OPTStatement6June2014.pdf, p. 14.
[118] Ibid.
[119] *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, p. 200.
[120] See www.un.org/sg/en/content/ban-ki-moon/human-rights-front-initiative.

recognition that respect for human rights is the path out of the conflict. This requires the political will and commitment of all stakeholders.

Annex

List of reports included in the review[a]

Fact-finding missions and commissions of inquiry

Symbol	*Title of report*
A/HRC/12/48	Human rights situation in Palestine and other occupied Arab territories: report of the United Nations Fact-Finding Mission on the Gaza Conflict
A/HRC/22/63	Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem
A/HRC/29/52	Report of the independent commission of inquiry established pursuant to Human Rights Council resolution S-21/1

Special procedure mandate holders

Symbol	*Title of report*
A/HRC/10/8/Add.2	Report of the Special Rapporteur on freedom of religion or belief, Asma Jahangir Addendum: mission to Israel and the occupied Palestinian territory
A/HRC/10/20	Human rights situation in Palestine and other occupied Arab territories: report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk
A/HRC/10/21	Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development: report of the Working Group on Arbitrary Detention
A/HRC/10/22	Human rights situation in Palestine and other occupied Arab territories: combined report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, the Special Representative of the Secretary-General for Children and Armed Conflict, the Special Rapporteur on violence against women, its causes and consequences, the Representative of the Secretary-General on the human rights of internally displaced persons, the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, the Special Rapporteur on the right to food, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the right to education and the independent expert on the question of human rights and extreme poverty

[a] List includes reports 2009-2016 from which recommendations have been drawn or which are reflected in the review.

Symbol	*Title of report*
A/64/328	Situation of human rights in the Palestinian territories occupied since 1967
A/HRC/13/53/Rev.1	Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk
A/65/331	Situation of human rights in the Palestinian territories occupied since 1967
A/HRC/16/72	Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk
A/66/358	Situation of human rights in the Palestinian territories occupied since 1967
A/HRC/20/17/Add.2	Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue Addendum: mission to Israel and the occupied Palestinian territory
A/HRC/20/32	Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk
A/67/379	Situation of human rights in the Palestinian territories occupied since 1967
A/HRC/23/21	Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk
A/HRC/25/67	Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Richard Falk
A/HRC/28/78	Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Makarim Wibisono
A/70/392	Situation of human rights in the Palestinian territories occupied since 1967
A/HRC/31/73	Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967
A/71/554	Situation of human rights in the Palestinian territories occupied since 1967

Reports by the Secretary-General

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A/64/516	Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem: report by the Secretary-General
A/64/517	Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem: report by the Secretary-General
A/65/366	Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem: report by the Secretary-General
A/66/356	Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem: report by the Secretary-General

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A/67/372	Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem: report by the Secretary-General
A/68/502	Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem: report by the Secretary-General
A/69/347	Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem: report by the Secretary-General
A/70/421	Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem: report by the Secretary-General
A/65/365	Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan: report of the Secretary-General
A/66/364	Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan: report of the Secretary-General
A/67/375	Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan: report of the Secretary-General
A/HRC/24/30	Human rights situation in the Occupied Palestinian Territory, including East Jerusalem: report by the Secretary-General
A/68/513	Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan: report of the Secretary-General
A/HRC/25/38	Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan: report of the Secretary-General
A/69/348	Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan: report of the Secretary-General
A/70/351	Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan: report of the Secretary-General
A/HRC/28/44	Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan: report of the Secretary-General
A/HRC/28/45	Human rights situation in the Occupied Palestinian Territory, including East Jerusalem: report by the Secretary-General
A/71/355	Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan: report of the Secretary-General
A/HRC/31/43	Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and the occupied Syrian Golan: report of the Secretary-General
A/HRC/31/44	Human rights situation in the Occupied Palestinian Territory, including East Jerusalem: report by the Secretary-General

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A/71/364	Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem: report of the Secretary-General

Reports by the United Nations High Commissioner for Human Rights

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A/HRC/12/37	Human rights situation in Palestine and other occupied Arab territories: the grave violations of human rights in the Occupied Palestinian Territory, particularly due to the recent Israeli military attacks against the occupied Gaza Strip: report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolution S-9/1
A/HRC/15/54	The grave violations of human rights in the Occupied Palestinian Territory, particularly due to the recent Israeli military attacks against the occupied Gaza strip: report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1
A/HRC/16/71	Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1
A/HRC/19/20	Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1
A/HRC/22/35	Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1
A/HRC/22/46/Add.1	Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Raquel Rolnik Addendum: mission to Israel and the Occupied Palestinian Territory
A/HRC/25/40	Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1
A/HRC/28/80	Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1
A/HRC/31/40	Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolutions S-9/1 and S-12/1

Reports by human rights treaty bodies

Symbol	*Title of report*
CAT/C/ISR/CO/4	Consideration of reports submitted by States parties under article 19 of the Convention: concluding observations of the Committee against Torture
CRC/C/OPAC/ISR/CO/1	Consideration of reports submitted by States parties under article 8 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict: concluding observations: Israel
CCPR/C/ISR/CO/3	Consideration of reports submitted by States parties under article 40 of the Covenant: concluding observations of the Human Rights Committee: Israel
CEDAW/C/ISR/CO/5	Concluding observations of the Committee on the Elimination of Discrimination against Women: Israel
E/C.12/ISR/CO/3	Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant: concluding observations of the Committee on Economic, Social and Cultural Rights: Israel
CERD/C/ISR/CO/14-16	Consideration of reports submitted by States parties under article 9 of the Convention: concluding observations of the Committee on the Elimination of Racial Discrimination: Israel
CRC/C/ISR/CO/2-4	Concluding observations on the second to fourth periodic reports of Israel, adopted by the Committee at its sixty-third session (27 May-14 June 2013)
CCPR/C/ISR/CO/4	Concluding observations on the fourth periodic report of Israel
CRC/C/OPSC/ISR/CO/1	Concluding observations on the report submitted by Israel under article12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography
CAT/C/ISR/CO/5	Concluding observations on the fifth periodic report of Israel

Universal periodic review

Symbol	*Title of report*
A/HRC/10/76	Report of the Working Group on the Universal Periodic Review: Israel
A/HRC/25/15	Report of the Working Group on the Universal Periodic Review: Israel